

M.G., F.M., L.A., J.M., L.G., F.B., M.N., ) Case No.: '12CV0460 DMS MDD

**COMPLAINT FOR:**

**(1) VIOLATION OF EMPLOYEE  
POLYGRAPH PROTECTION ACT  
29 USC § 2002 (1)**

**(2) VIOLATION OF EMPLOYEE  
POLYGRAPH PROTECTION ACT  
29 USC § 2002 (2)**

**(3) VIOLATION OF EMPLOYEE  
POLYGRAPH PROTECTION ACT  
29 USC § 2002 (3)**

**(4) VIOLATION OF EMPLOYEE  
POLYGRAPH PROTECTION ACT  
29 USC § 2006 (d)**

**(5) VIOLATION OF EMPLOYEE  
POLYGRAPH PROTECTION ACT  
29 USC § 2007 (a)**

**(6) VIOLATION OF EMPLOYEE  
POLYGRAPH PROTECTION ACT  
29 USC § 2007 (b)**

**(7) FRAUD**

## **(8) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

**(9) NEGLIGENCE**

**(10) PERMANENT INJUNCTION AND  
OTHER EQUITABLE RELIEF**

**JURY TRIAL IS HEREBY DEMANDED**

1 COME NOW, Plaintiffs M.G., F.M., L.A., J.M., L.G., F.B., M.N., and R.G., by and  
2 through their attorneys of record, and allege and complain as follows:

3 **I.**  
4 **INTRODUCTION**

5 Plaintiffs worked as linguists for Metropolitan Interpreters and Translators, Inc.  
6 (“Metropolitan”), a private corporation that contracted with various governmental agencies  
7 nationwide. Metropolitan had a contract with the Drug Enforcement Administration and  
8 Immigration and Customs Enforcement in San Diego. Plaintiffs, as employees of Metropolitan,  
9 provided translation services for DEA and ICE in San Diego County. In 2011, Metropolitan  
10 requested, required and demanded that all linguists working in their San Diego and Imperial  
11 County offices take polygraph exams administered by Drug Enforcement Administration  
12 personnel. Defendant Blanca Armenta, the Metropolitan site supervisor in San Diego, requested,  
13 required and demanded Plaintiffs take the DEA administered polygraph exams as a condition of  
14 employment. If the employees “failed” or refused the test, they would lose their “clearance” to  
15 be in the DEA and ICE offices, meaning that they would be terminated from their jobs.

16 Metropolitan was not conducting an investigation involving economic loss to  
17 Metropolitan. Nor did Metropolitan have any individualized suspicion that any of the Plaintiffs  
18 had committed a crime or had engaged in wrongdoing. Rather, Metropolitan imposed the  
19 blanket requirement that every linguist in San Diego and Imperial County take polygraphs.  
20 Metropolitan provided no written material to Plaintiffs which explained the purpose of these  
21 mandatory tests nor the basis for any investigation or suspicion; nor did Metropolitan give  
22 written notice of the employees’ rights under federal and state law.

23 The polygraph testing in this case was prohibited by the Employee Polygraph  
24 Protection Act of 1988, 29 U.S.C. §§ 2001, *et seq.* Metropolitan effectively terminated  
25 Plaintiffs from their employment either for “failing” the polygraph test, having an inconclusive  
26 test result, or refusing to submit to the examination.

27 Because Plaintiffs translated wiretaps involving criminal investigations, they were not  
28 allowed to discuss their work with outsiders. Plaintiffs therefore bring this suit under their

1 initials.

2 **II.**  
3 **GENERAL ALLEGATIONS**

4 1. Jurisdiction is proper in the United States District Court for the Southern District  
5 of California pursuant to 28 U.S.C. §1331 and 29 U.S.C. §§ 2001 *et seq.*

6 2. This Court has supplemental jurisdiction over the pendent state law claims under  
7 28 U.S.C. § 1367(a).

8 3. Venue is proper in the Southern District of California pursuant to 28 U.S.C.  
9 §1391(b), because at all times relevant hereto, a substantial part of the events or omissions giving  
10 rise to the subject of the action occurred in San Diego County.

11 **III.**  
12 **PARTIES**

13 4. At all times relevant to this complaint, Plaintiffs were individuals residing in San  
14 Diego County, California.

15 5. At all times relevant to this complaint, Defendant METROPOLITAN  
16 INTERPRETERS and TRANSLATORS, INC. (hereinafter “METROPOLITAN”) was a  
17 nationwide corporation operating throughout the United States, including San Diego County,  
18 California and employing the individual Defendants who were acting within the course and  
19 scope of their employment.

20 6. Defendant JOSEPH CITRANO was the Vice President of Defendant  
21 METROPOLITAN.

22 7. Defendant LEE LAIMBEER was an employee of Defendant METROPOLITAN  
23 and the head of Human Resources and Security.

24 8. Defendant RON PEREZ was an employee of Defendant METROPOLITAN and a  
25 supervisor.

26 9. Defendant MONICA LEU was an employee of Defendant METROPOLITAN  
27 and the supervisor of BLANCA ARMENTA.

28 10. Defendant BLANCA ARMENTA was an employee of Defendant

1 METROPOLITAN and the site supervisor in San Diego.

2 11. The individual defendants participated in, promoted, approved and executed  
3 Metropolitan's corporate policy in contravention of the EPPA.

4 12. Plaintiffs are truly ignorant of the true names and capacities of DOES 1 through  
5 20, inclusive, and/or are truly ignorant of the facts giving rise to their liability and will amend  
6 this complaint once their identities and the facts giving rise to their liability have been  
7 ascertained.

8 13. These defendants were agents, servants and employees of other named defendants  
9 and were acting at all times within the full course and scope of their agency and employment,  
10 with the full knowledge and consent, either expressed or implied, of their principal and/or  
11 employer and each of the other named defendants. Each of the defendants had approved or  
12 ratified the actions of the other defendants, thereby making the currently named defendants  
13 herein liable for the acts and/or omissions of their agents, servants and/or employees.

14 **IV.**  
15 **FACTS**

16 14. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
17 herein.

18 15. Defendant Metropolitan describes itself as the "largest provider of translators,  
19 transcription and interpretation services to the law enforcement community, government agencies  
20 and private corporations nationwide." It has offices in New York, Miami, Los Angeles, San  
21 Diego, Washington D.C. and Scottsdale, Arizona. Its corporate headquarters are located in New  
22 York. Defendant Metropolitan is engaged in commerce within the meaning of 18 U.S.C. § 2001.

23 16. Plaintiffs were linguists working for Metropolitan who had been thoroughly  
24 screened, vetted and subjected to security clearance checks before being hired.

25 17. After a thorough background investigation before hiring, Plaintiffs were given  
26 "Law Enforcement Access" which allowed to them to enter the premises of DEA offices.

27 18. In 2011, Defendant Metropolitan requested, required and demanded all linguists  
28 in San Diego and Imperial County submit to polygraph tests.

1           19.     A private employer is prohibited from requesting, requiring or demanding a  
2 polygraph test from an employee under the Employee Polygraph Protection Act, 29 USC §§  
3 2001, *et seq.*

4           20.     While the DEA is excluded from the EPPA requirements with respect to its own  
5 employees, it is prohibited from requesting, requiring or demanding that a private contractor's  
6 employees submit to a polygraph under 29 USC §§ 2001, *et seq* unless the contractor falls under  
7 specified statutory exceptions, none of which apply in this case.

8           21.     Under 29 CFR § 801.10, "exclusion from the Act applies only to the Federal,  
9 State, and local government entity with respect to **its own public employees**. Except as provided  
10 in sections 7 (b) and (c) of the Act, and § 801.11 of the regulations, this exclusion does not  
11 extend to contractors or nongovernmental agents of a government entity, nor does it extend to  
12 government entities with respect to employees of a private employer with which the government  
13 entity has a contractual or other business relation-ship." (Emphasis added)

14           22.     The DEA's actions in performing polygraphs were clearly illegal. Instead of  
15 declining to force its employees into submitting to illegal polygraphs, Metropolitan and  
16 defendants agreed with, participated with and aided and abetted the DEA in the violation of law  
17 described in this Complaint. Metropolitan and the defendants engaged in a joint venture to  
18 violate the laws a described.

19           23.     While it was DEA polygraphers who administered the tests, it was Defendant  
20 Metropolitan which coordinated the testing; scheduled the tests; communicated with the  
21 employees regarding the tests; presented the order in which the tests would be given; and  
22 discharged the employees after they "failed" or refused the test or had inconclusive test results.

23           24.     Defendant JOSEPH CITRANO mandated that all of the employees' questions be  
24 directed to him, Defendant Leu, Defendant Laimbeer and Defendant Perez. Citrano forbade any  
25 communication regarding the polygraph between the employees and DEA.

26           25.     Defendant JOSEPH CITRANO approved, endorsed, ratified, and enforced the  
27 taking of the polygraphs by Metropolitan employees.  
28

1           26. Defendant JOSEPH CITRANO provided false and incomplete information to  
2 employees regarding the legality of the polygraph testing, approved the polygraph testing in  
3 violation of law.

4           27. Defendant LEE LAIMBEER, the head of Human Resources, approved, endorsed  
5 ratified, and enforced the polygraph testing.

6           28. Defendant RONALD PEREZ, a supervisor at Metropolitan, approved, endorsed  
7 ratified, and enforced the polygraph testing.

8           29. Defendant RONALD PEREZ placed the Plaintiffs on “laid-off status” and  
9 implemented the termination of employees.

10           30. Defendant MONICA LEU, the supervisor of Defendant BLANCA ARMENTA,  
11 approved, endorsed, ratified, and enforced the polygraph testing.

12           31. Defendant BLANCA ARMENTA coordinated all polygraph tests, often changing  
13 the date and time of the tests without warning, and notifying some employees of the testing via  
14 text messaging on employees’ cell phones during their days off.

15           32. Defendant ARMENTA told a DEA supervisor that employees failed polygraph  
16 tests “for a reason.”

17           33. Plaintiff M.G. On July 6, 2011 Defendant Armenta told M.G. that he had to  
18 “cover” an evening shift. Thirty minutes after reporting, Defendant Armenta instructed M.G.  
19 that he was to undergo a polygraph examination. No one had provided M.G. with any written  
20 materials regarding the examination. M.G. had to submit to a four hour polygraph test as a  
21 condition of his employment. After his examination, he was escorted from the building.  
22 Metropolitan terminated his employment.

23           34. Plaintiff F.M. On July 8, 2011, Plaintiff felt ill and took a day off from work. On  
24 that day, Defendant Armenta told F.M. that he would need to come to work the following day  
25 Saturday, July 9, 2011 to take a polygraph examination. On July 9, 2011, F.M. told the  
26 polygrapher that he had not eaten breakfast and did not feel well. F.M. told the polygrapher that  
27 he had back surgery several years before and could not remain in the same position for an  
28

1 extended period. Despite this, F.M. was subjected to approximately four hour polygraph test.  
2 The polygrapher asked personal questions regarding F.M.'s past relationship and family  
3 relationships and F.M.'s financial situation. The polygrapher told F.M. that he had neither  
4 passed nor failed the polygraph. He was later escorted out of the building and his badge taken  
5 away. He was effectively discharged from employment.

6 35. Plaintiff L.A. Defendant Armenta told L.A. that she was to take a polygraph test  
7 on August 29, 2011. On August 10, 2011 however, Defendant Armenta told L.A. that she would  
8 have to take the exam the very next day, August 11. No one provided L.A. with any written  
9 documentation regarding the polygraph examination. L.A., in response to the polygrapher's  
10 questions, explained that she had high blood pressure for which she was taking medication. L.A.  
11 was told to wash her hands with warm water. During the pre-test phase of the examination, the  
12 polygrapher asked her if she had engaged in sexual activity with animals. L.A.'s examination  
13 lasted approximately five hours. L.A. was told that she had not passed the polygraph exam. L.A.  
14 was terminated from her employment at Metropolitan.

15 36. Plaintiff J.M. J.M.'s shift supervisor gave him a letter on August 1, 2011 that he  
16 would have to submit to a polygraph on August 22, 2011. No one provided J.M. with any other  
17 written documentation regarding the polygraph examination. The examination lasted  
18 approximately four hours and included a question regarding his sexual conduct and whether he  
19 cheated on his partner. After J.M. took the polygraph, he was escorted out as if he had  
20 committed a crime. The polygrapher told J.M. that he failed one question and asked J.M. to  
21 submit to a retest. J.M. agreed to a retest. No one set up a retest and he was terminated from his  
22 job.

23 37. Plaintiff L.G. Defendant Armenta told L.G. that she was required to take a  
24 polygraph exam that was scheduled for September 13, 2011. On Tuesday August 30, 2011,  
25 Defendant Armenta sent L.G. a text message on her private cell phone, arbitrarily changing the  
26 date to that following Friday, September 2, 2011. L.G. submitted to a three hour polygraph  
27 examination on September 2. L.G. "failed" the test and took the test again the next day for  
28

1 another three hours. L.G. was told that she failed the polygraph. Plaintiff L.G. worked at the  
2 ICE office which did not request or require a polygraph examination. In December of 2011, ICE  
3 was advised of the results of the polygraph examinations. Metropolitan effectively discharged  
4 L.G in December of 2011.

5 38. Plaintiff F.B. On August 2, 2011, Metropolitan shift supervisor gave F.B. a  
6 facsimile notifying him that he was scheduled for a polygraph on September 30, 2011. No one  
7 provided any other documents related to the polygraph. On August 30, 2011, Defendant  
8 Armenta sent F.B. a text message that read: "Fyi yur (sic) poly is rescheduled ok. Not sure when  
9 yet." On September 9, 2011, Defendant Armenta sent a text message to F. B. that read: "Yur  
10 (sic) polygraph is scheduled for: 9/14 at 11:30am. Plz (sic) have yur (sic) DL avail and make a  
11 copy. And eat before yur (sic) poly plz (sic)." One minute later, Defendant Armenta sent F.B.  
12 yet another text message that read: "Yur (sic) scheduled for PM shift in Carlsbad but a sup will  
13 cover it. Come directly to div plz (sic)." F. B. Submitted to the polygraph on September 14,  
14 2011 that lasted approximately four hours. He was asked personal questions including whether  
15 he ever received treatment from a mental health practitioner. The polygrapher told F.B. that he  
16 "failed" the exam. Metropolitan discharged him.

17 39. Plaintiff M.N. Defendant Armenta told M.N. via text message that she was to  
18 take a polygraph on September 15, 2011. M.N. provided a written statement to the DEA agent  
19 declining to take the polygraph. M.N. stated in the letter that the actions of Metropolitan were in  
20 direct violation of the Employee Polygraph Protection Act. She stated that she had not been  
21 provided with reasonable written notice before the exam. M.N. stated that she declined to take  
22 the test because both the test and the manner of testing were in violation of the law. Because she  
23 declined to take the test, Metropolitan fired her.

24 40. Plaintiff R.G. In the summer of 2011, defendant Armenta told R.G. verbally that  
25 he would have to submit to a polygraph examination and that a date for the examination would  
26 be given at a later time. R.G. knew that of the first eleven Metropolitan employees tested from  
27 El Centro, seven had "failed" and were let go. R.G. grew concerned as he found out that  
28



1 employees being tested were being called liars and pressed to “tell the truth” during the  
2 polygraph examinations. On one occasion, Defendant Armenta told R.G. to take the polygraph  
3 exam the very next morning. R.G. told Armenta that he had an appointment and could not do it  
4 on such short notice. On another occasion, Defendant Armenta called R.G. shortly after his night  
5 shift had begun and instructed him to go home early because Armenta scheduled his polygraph  
6 examination the following morning. Defendant Armenta told him that he would have to go  
7 home because they did not want to pay R.G. overtime since the administration of the polygraph  
8 would exceed his 40 hours for the week. R.G. had car pooled with a co-worker who did not have  
9 a way home and could not leave early. Defendant Armenta told him that she would reschedule  
10 his polygraph. R.G. informed Defendant Armenta on or about November 6, 2011 (2 or 3 days  
11 before he was scheduled to take the exam) that he was not going to take the exam. At the time,  
12 R.G. was working at ICE, which did not request or require that Metropolitan employees take the  
13 polygraph examination. On December 21, 2011, while working at ICE, R.G. was informed that  
14 he was required to leave the site after he finished his shift that day. Defendant Laimbeer notified  
15 R.G. that he was to return his identification card. R.G. contacted Defendant Armenta regarding  
16 Laimbeer’s instructions and Defendant Armenta expressed regret that he would no longer be  
17 working at Metro.

18 41. Defendants constantly changed the dates of the employees’ polygraphs without  
19 notice, adding to the widespread anxiety that they could be terminated at any given moment.

20 42. Metropolitan forbade the employees to speak to any DEA official about the  
21 polygraphs and mandated that they speak only to Defendant Armenta and other Metropolitan  
22 supervisors.

23 43. Metropolitan effectively fired all employees who “failed,” had inconclusive test  
24 results, or refused the test by telling them that they could no longer access the DEA and ICE  
25 buildings to perform their jobs.

26 44. The DEA had no legal right to administer polygraph tests to Plaintiffs, who were  
27 employees not of the United States, but of Metropolitan. The EPPA prohibited the DEA from  
28

1 administering the polygraphs in this case. See 29 CFR § 801.10. Metropolitan aided and  
 2 abetted DEA in violating the statute. Metropolitan's actions were independently in violation of  
 3 the EPPA and California state law.

4 45. Under the EPPA, any waiver of rights guaranteed by 29 USCS §§ 2001 *et seq.* is  
 5 prohibited. The rights and procedures may not be waived by contract or otherwise, unless such  
 6 waiver is part of a written settlement agreed to and signed by the parties to  
 7 the pending action or complaint under 29 USCS §§ 2001 *et seq.*

8 **V.**  
 9 **FIRST CAUSE OF ACTION**  
 10 **VIOLATION OF EMPLOYEE POLYGRAPH PROTECTION ACT**  
 11 **29 USC § 2002 (1)**

12 46. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
 13 herein.

14 47. 29 USCS § 2002 provides in relevant part:

15 Except as provided in sections 7 and 8 [29 USCS §§ 2006, 2007], it  
 16 shall be unlawful for any employer engaged in or affecting  
 17 commerce or in the production of goods for commerce--

18 (1) directly or indirectly, to require, request, suggest, or cause any  
 19 employee or prospective employee to take or submit to any lie  
 20 detector test

21 48. Plaintiffs had a firmly established right under the Employee Polygraph Protection  
 22 Act (EPPA) which prohibits employers from using any lie detector tests either for pre-  
 23 employment screening or during the course of employment.

24 49. Metropolitan is not entitled to an exclusion from the coverage under the EPPA  
 25 because it is a private company.

26 50. Defendants required, requested, and suggested that Plaintiffs take or submit to a  
 27 lie detector test.

28 51. Defendants directly and indirectly caused Plaintiffs to submit to a lie detector test.

52. As a direct and proximate result of Defendants' actions, Plaintiffs were subjected  
 to humiliation, fear, loss of income, loss of reputation, dissemination of defamatory information,

1 loss of employment, and pain and suffering by the illegal acts of defendants and are entitled to  
2 attorney fees and punitive damages.

3  
4 **VI.**  
**SECOND CAUSE OF ACTION**  
5 **VIOLATION OF EMPLOYEE POLYGRAPH PROTECTION ACT**  
6 **29 USC § 2002 (2)**

7 53. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
8 herein.

9 54. 29 USCS § 2002 (2) provides that it is unlawful for an employer “to use, accept,  
10 refer to, or inquire concerning the results of any lie detector test of any employee or prospective  
11 employee.”

12 55. Defendants used, accepted and inquired about the results of the lie detector tests of  
13 the Plaintiffs.

14 56. As a direct and proximate result of Defendants’ actions, Plaintiffs were subjected  
15 to humiliation, fear, loss of income, loss of reputation, dissemination of defamatory information,  
16 loss of employment, and pain and suffering by the illegal acts of defendants and are entitled to  
17 attorney fees and punitive damages.

18 **VII.**  
**THIRD CAUSE OF ACTION**  
19 **VIOLATION OF EMPLOYEE POLYGRAPH PROTECTION ACT**  
20 **29 USC § 2002 (3)**

21 57. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
22 herein.

23 58. 29 USCS § 2002 (3) provides in relevant part:

24 Except as provided in sections 7 and 8 [29 USCS §§ 2006, 2007], it  
25 shall be unlawful for any employer engaged in or affecting  
26 commerce or in the production of goods for commerce--

27 (3) to discharge, discipline, discriminate against in any manner, or  
28 deny employment or promotion to, or threaten to take any such  
action against--

(A) any employee or prospective employee who refuses,  
declines, or fails to take or submit to any lie detector test, or

(B) any employee or prospective employee on the basis of

1 the results of any lie detector test...

2 59. Defendants discharged, disciplined and discriminated against the Plaintiffs based  
3 on the results of the lie detector test or their refusal to submit to a test.

4 60. Defendants threatened to discharge, discipline, or discriminate against Plaintiffs for  
5 refusal or failure to take or submit to a lie detector test.

6 61. Defendants threatened to discharge, discipline, or discriminate against Plaintiffs  
7 on the basis of the results of a polygraph test.

8 62. Defendants discharged Plaintiffs M.G., L.A., J.M. L.G., and F.B. and for “failing”  
9 the polygraph.

10 63. Defendants discharged Plaintiff F.M. for neither passing nor “failing” the  
11 polygraph.

12 64. Defendants discharged Plaintiffs M.N and R.G. for refusing to take the polygraph  
13 test.

14 65. As a direct and proximate result of Defendants’ actions, Plaintiffs were subjected  
15 to humiliation, fear, loss of income, loss of reputation, dissemination of defamatory information,  
16 loss of employment, and pain and suffering by the illegal acts of defendants and are entitled to  
17 attorney fees and punitive damages.

18 **VIII.**  
19 **FOURTH CAUSE OF ACTION**  
20 **VIOLATION OF EMPLOYEE POLYGRAPH PROTECTION ACT**  
21 **29 USC § 2006 (d)**

22 66. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
23 herein.

24 67. The EPPA provides a limited exemption to private employers for ongoing  
25 investigations.

26 68. 29 USCS § 2006 (d) provides in part:

27 (d) Limited exemption for ongoing investigations. Subject to  
28 sections 8 and 10 [29 USCS §§ 2007 and 2009], this Act  
[29 USCS §§ 2001 et seq.] shall not prohibit an employer from  
requesting an employee to submit to a polygraph test if--

(1) the test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, such as theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage;

(2) the employee had access to the property that is the subject of the investigation;

(3) the employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(4) the employer executes a statement, provided to the examinee before the test, that--

(A) sets forth with particularity the specific incident or activity being investigated and the basis for testing particular employees,

(B) is signed by a person (other than a polygraph examiner) authorized to legally bind the employer,

(C) is retained by the employer for at least 3 years...

69. Defendants did not have reasonable suspicion that a particular employee was responsible for any crime or wrongdoing being investigated; the polygraph examinations were forced upon every employee in San Diego and Imperial Counties.

70. Defendants were not entitled to an exemption from the EPPA.

71. Even if they were entitled to an exemption, Defendants were required under 29 USCS § 2006 to provide to the employees before the test a statement that set forth the following information: (A) the specific incident or activity being investigated and the basis for testing particular employees; (B) which was signed by a person (other than a polygraph examiner) authorized to legally bind the employer, and (C) is retained by the employer for at least 3 years.

72. Defendants failed to provide such a notice to Plaintiffs.

73. Defendants failed to provide any documentation to the Plaintiffs that set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees.

74. 29 USCS § 2006 (d)(4)(D) requires that the employer's written statement:

(D) contains at a minimum--

(I) an identification of the specific economic loss or injury to the business of the employer,

(ii) a statement indicating that the employee had access to the property that is the subject of the investigation, and

(iii) a statement describing the basis of the employer's reasonable suspicion that the employee was involved in the incident or activity under investigation.

75. Defendants failed to provide any written material to the Plaintiffs as mandated by the EPPA, 29 USCS § 2006 (d)(4)(D).

76. As a direct and proximate result of Defendants' actions, Plaintiffs were subjected to humiliation, fear, loss of income, loss of reputation, dissemination of defamatory information, loss of employment, and pain and suffering by the illegal acts of defendants and are entitled to attorney fees and punitive damages.

**IX.  
FIFTH CAUSE OF ACTION  
VIOLATION OF EMPLOYEE POLYGRAPH PROTECTION ACT  
29 USC § 2007 (a)**

77. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein.

78. The EPPA's limited exemption requires that the employer not take any adverse action against the employee based solely upon the results of a polygraph.

79. USCS § 2007 (a) provides:

(a) Test as basis for adverse employment action.

(1) Under ongoing investigations exemption. Except as provided in paragraph (2), the exemption under subsection (d) of section 7 [29 USCS § 2006(d)] shall not apply if an employee is discharged, disciplined, denied employment or promotion, or otherwise discriminated against in any manner on the basis of the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence. The evidence required by such subsection may serve as additional supporting evidence.

(2) Under other exemptions. In the case of an exemption described in subsection (e) or (f) of such section [29 USCS § 2006(e) or (f)], the exemption shall not apply if the results of an analysis of a polygraph test chart are used, or the refusal to take a polygraph test is used, as the sole basis upon which an adverse employment action described in paragraph (1) is taken against an employee or prospective employee.

1  
2 80. Metropolitan employees were discharged, disciplined, denied employment or  
3 promotion, or otherwise discriminated against by Defendants for refusing to take the polygraph,  
4 “failing” the examination, or receiving an “inconclusive” result from the polygraph.

5 81. Plaintiffs were “laid off,” which was *de facto* termination, without any additional  
6 “supporting evidence” as required by 29 U.S.C. § 2007.

7 82. The “failure,” the inconclusive result of the exam, or the refusal to take the  
8 polygraph were the sole basis upon which an adverse employment action was taken against some  
9 Plaintiffs.

10 83. As a direct and proximate result of Defendants’ actions, Plaintiffs were subjected  
11 to humiliation, fear, loss of income, loss of reputation, dissemination of defamatory information,  
12 loss of employment, and pain and suffering by the illegal acts of defendants and are entitled to  
13 attorney fees and punitive damages.

14  
15 **X.**  
**SIXTH CAUSE OF ACTION**  
**VIOLATION OF EMPLOYEE POLYGRAPH PROTECTION ACT**  
**29 USC § 2007 (b)**  
16

17 84. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same  
18 herein.

19 85. The EPPA provides rights to any examinee of a polygraph test.

20 86. USCS § 2007 (b) provides in relevant part:

21 (b) Rights of examinee. The exemptions provided under  
22 subsections (d), (e), and (f) of section 7 [29 USCS § 2006(d)-(f)]  
23 shall not apply unless the requirements described in the following  
paragraphs are met:

24 (1) All phases. Throughout all phases of the test--

25 (A) the examinee shall be permitted to terminate the test at any  
time;

26 (B) the examinee is not asked questions in a manner designed to  
degrade, or needlessly intrude on, such examinee;

27 (C) the examinee is not asked any question concerning--

28 (i) religious beliefs or affiliations,

- (ii) beliefs or opinions regarding racial matters,
- (iii) political beliefs or affiliations,
- (iv) any matter relating to sexual behavior; and
- (v) beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations; and

\*\*\*\*\*

(2) Pretest phase. During the pretest phase, the prospective examinee--

(A) is provided with reasonable written notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is informed in writing of the nature and characteristics of the tests and of the instruments involved;

(C) is informed, in writing--

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed,

(ii) whether any other device, including any device for recording or monitoring the test, will be used, or

(iii) that the employer or the examinee may (with mutual knowledge) make a recording of the test;

(D) is read and signs a written notice informing such examinee--

(i) that the examinee cannot be required to take the test as a condition of employment,

(ii) that any statement made during the test may constitute additional supporting evidence for the purposes of an adverse employment action described in subsection (a),

(iii) of the limitations imposed under this section,

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act [29

USCS §§ 2001 et seq.], and (v) of the legal rights and remedies of the employer under this Act [29 USCS §§ 2001 et seq.] (including the rights of the employer under section 9(c)(2) [29 USCS § 2008(c)(2)]);and

(E) is provided an opportunity to review all questions to be asked during the test and is informed of the right to terminate the test at any time.

(3) Actual testing phase. During the actual testing phase, the examiner does not ask such examinee any question relevant during the test that was not presented in writing for review to such examinee before the test.

(4) Post-test phase. Before any adverse employment action, the



1 employer shall--

2 (A) further interview the examinee on the basis of the results of the  
test; and

3 (B) provide the examinee with--

4 (i) a written copy of any opinion or conclusion rendered as a result  
of the test, and

5 (ii) a copy of the questions asked during the test along with the  
corresponding charted responses.

6 87. Defendants violated USCS § 2007 (b) not allowing Metropolitan employees  
7 terminate the polygraph.

8 88. Defendants violated USCS § 2007 (b) by asking questions in a manner designed to  
9 degrade, or needlessly intrude on Plaintiffs and other Metropolitan employees.

10 89. Defendants violated USCS § 2007 (b) asking questions relating to sexual  
11 behavior, including whether the examinee engaged in sexual activity with animals.

12 90. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
13 provide Plaintiffs with reasonable written notice of the date, time, and location of the test, and of  
14 such examinee's right to obtain and consult with legal counsel or an employee representative  
15 before each phase of the test.

16 91. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
17 inform Plaintiffs in writing of the nature and characteristics of the tests and of the instruments  
18 involved.

19 92. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
20 inform Plaintiffs in writing whether the testing area contains a two-way mirror, a camera, or any  
21 other device through which the test can be observed.

22 93. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
23 inform Plaintiffs in writing whether any other device, including any device for recording or  
24 monitoring the test, will be used.

25 94. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
26 inform Plaintiffs in writing that the employer or the examinee may (with mutual knowledge)  
27 make a recording of the test.  
28

1           95. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
2 inform Plaintiffs and obtain the Plaintiffs' signature on a notice that the examinee cannot be  
3 required to take the test as a condition of employment

4           96. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
5 inform Plaintiffs and obtain the Plaintiffs' signature on a notice that any statement made during  
6 the test may constitute additional supporting evidence for the purposes of an adverse employment  
7 action described in subsection (a).

8           97. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
9 inform Plaintiffs of the limitations imposed under this section and obtain the Plaintiffs' signatures  
10 on such a written notice.

11           98. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
12 inform Plaintiffs of the legal rights and remedies available to the examinee if the polygraph test is  
13 not conducted in accordance with this Act [*29 USCS §§ 2001 et seq.*], and of the legal rights and  
14 remedies of the employer under this Act [*29 USCS §§ 2001 et seq.*] (including the rights of the  
15 employer under section 9(c)(2) [*29 USCS § 2008(c)(2)*]).

16           99. Defendants violated USCS § 2007 (b) (2) during the pretest phase by failing to  
17 provide an opportunity to Plaintiffs to review all questions to be asked during the test and inform  
18 them of the right to terminate the test at any time.

19           100. Defendants violated USCS § 2007 (b) (4) during the post-test phase by failing  
20 to further interview the examinee on the basis of the results of the test; and provide a written copy  
21 of any opinion or conclusion rendered as a result of the test, and a copy of the questions asked  
22 during the test along with the corresponding charted responses.

23           101. As a direct and proximate result of Defendants' actions, Plaintiffs were subjected  
24 to humiliation, fear, loss of income, loss of reputation, dissemination of defamatory information,  
25 loss of employment, and pain and suffering by the illegal acts of defendants and are entitled to  
26 attorney fees and punitive damages.

27 ////  
28

**XI.**  
**SEVENTH CAUSE OF ACTION**  
**Fraud**

102. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein.

103. Defendants represented to the Plaintiffs that the polygraph examinations were legitimate and could be legally required.

104. Defendants represented to the Plaintiffs that the polygraph examinations were being required by the DEA and that the DEA was legally permitted to do so under the EPPA

105. Defendants represented to the Plaintiffs that the EPPA did not apply to this situation.

106. These representations were false.

107. Defendants were aware that these representations were false.

108. Defendants made this representations so that plaintiffs would rely on them and submit to the polygraph tests to curry favor with the DEA and preserve the company's ongoing and profitable relationship with government agencies despite the illegality of both Metropolitan's and the DEA's actions as set forth in this complaint.

109. Plaintiffs were not aware of the falsity of these statements and relied on them in submitting to the polygraph tests.

110. Plaintiffs had a right to rely on the representations of their employers and as a direct and proximate cause, they lost their employment and were subjected to humiliation.

**XII.**  
**EIGHTH CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**

111. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein.

112. By engaging in the acts alleged herein, Defendants engaged in outrageous conduct with an intent to, or a reckless disregard of the probability of causing, Plaintiffs to suffer emotional distress.

**XIII.**  
**NINTH CAUSE OF ACTION**  
**Negligence**

116. Defendants, their agents, servants and employees owed a duty of reasonable care to prevent unnecessary harm to Plaintiffs.

118. Defendants were negligent in their failure to properly explain the basis and procedure to the employees and unilaterally and constantly rescheduling the polygraph tests without warning to the employees.

120. Defendant Metropolitan is liable under *respondeat superior* for the negligence of its employees performed within the course of their employment.

**XIV.**  
**TENTH CAUSE OF ACTION**  
**[INJUNCTIVE RELIEF]**

20

1 herein.

2 123. Plaintiffs are informed and believe and thereon allege that, unless enjoined,  
3 defendants will continue to engage in the unlawful and tortious acts.

4 124. Plaintiffs face the real and immediate threat of repeated and irreparable injury and  
5 continuing, present adverse effects as a result of the acts of the Defendants.

6 125. Plaintiffs have effectively been terminated from their jobs at Metropolitan and  
7 have lost their security clearance. Plaintiffs are therefore unable to obtain similar employment  
8 elsewhere.

9 126. Plaintiffs have no adequate and complete remedy at law.

10 127. Plaintiffs are entitled to equitable relief under 29 U.S.C. §2005.

11  
12 **XVI.**  
13 **PUNITIVE DAMAGES**

14 128. Defendants acted in deliberate disregard of plaintiffs rights under the Employee  
15 Polygraph Protection Act. They acted with oppression, fraud or malice within the meaning of  
16 Civil Code Section 3294 *et seq.* and punitive damages should be assessed against each defendant  
17 for the purpose of punishment and for the sake of example.

18  
19 WHEREFORE, Plaintiffs pray as follows:

- 20 1. For general and special damages according to proof at the time of trial  
21 2. For past and future lost wages and benefits and reinstatement of Plaintiffs'  
22 employment;  
23 3. For restoration of seniority rights;  
24 4. For expungement of record of the polygraph from the Plaintiffs' personnel files;  
25 5. For costs of suit and interest incurred herein and attorneys' fees pursuant to 29  
26 U.S.C. §2005;  
27 6. For punitive damages, and  
28 7. Any further injunctive or declaratory relief this court deems just and proper.

1 DATED: February 23, 2012

Respectfully submitted,

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*S/ Eugene Iredale*

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EUGENE G. IREDALE

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JULIA YOO

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Attorneys for Plaintiff

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JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

M.G., F.M., L.A., J.M., L.G., F.B., M.N., R.G., Individuals.

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Julia Yoo (SBN:231163), Eugene Iredale (SBN: 75292)  
 IREDALE & YOO, APC 105 W. F St. 4 Floor, San Diego CA 92101

**DEFENDANTS**

Metropolitan Interpreters and Translators, Inc., a corporation, et al.

County of Residence of First Listed Defendant New York

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**'12CV0460 DMS MDD****II. BASIS OF JURISDICTION**

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 29 USC section 2001 et seq. 28:1331 - Federal Question (JMD)

Brief description of cause:

Violation of the EPPA. Fraud. Intentional Infliction of Emotional Distress. Negligence.

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/23/2012

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE